

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

SONNY AUSTIN RAMDEO,

Plaintiff,

v.

UNITED STATES DEPT. OF JUSTICE,

Defendant.

Case: 1:19-cv-00114

Assigned To : Unassigned

Assign. Date : 1/11/2019

Description: FOIA /Privacy Act (I-DECK)

EXPEDITE 28 U.S.C. § 1657(a)

COMPLAINT FOR INJUNCTIVE RELIEF  
AND DAMAGES

SONNY AUSTIN RAMDEO, alleges upon knowledge as to his own acts, and otherwise upon information and belief, the following:

NATURE OF ACTION

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, et seq, as amended, and the Privacy Act of 1974 ("PA"), 5 U.S.C. § 552a, and the Administrative Procedures Act ("APA"), 5 U.S.C. § 706, to order the production of agency records in the possession, custody and control of components, the Federal Bureau of Prisons and the Office of Professional Responsibility, of the U.S. Department of Justice, an agency of the United States as well as award of damages for the intentional delay and obstruction with respect to disclosing the information.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B), the Privacy Act, 5 U.S.C. § 552a(g)(1)(B) and the Administrative Procedures Act, 5 U.S.C. § 703.

3. Venue is proper in this district under 5 U.S.C. § 552(a)(4)(B), 5 U.S.C. § 552a(g)(1)(B), and 5 U.S.C. § 703.

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PARTIES

4. Mr. Ramdeo is a citizen of the United States and a federal prisoner, is currently confined in the Low Security Correctional Institution in White Deer, Pennsylvania and is the requestor of the withheld records.

5. The United States Department of Justice ("DOJ") is an agency of the United States with several components. The DOJ has possession, custody and control of the records Mr. Ramdeo seeks.

6. The Federal of Prisons is a component of the DOJ, an agency of the United States. The BOP has possession, custody and control of the records Mr. Ramdeo seeks and has a pattern, practice and custom of intentionally withholding the records and delays disclosure to cover-up misconduct.

7. The Office of Professional Responsibility is a component of the DOJ, an agency of the United States. The OPR has possession, custody and control of the records Mr. Ramdeo seeks and has a pattern, practice and custom of issuing Glomar responses and intentionally withholding records to cover-up employee misconduct.

FACTUAL ALLEGATIONS

A. OFFICE OF PROFESSIONAL RESPONSIBILITY REQUEST

8. Mr. Ramdeo, via First Class Mail, mailed on or about February, 2018, a letter to the OPR requesting all records relating to a complaint filed by him in September, 2017 regarding the misconduct of a staff member Marcel Ramos. See (Exh. 1 - Acknowledgement Letter). The OPR assigned OPR FOIA No. F18-00077.

9. On or about April 2, 2018, the OPR issued a Glomar response, indicating "because you are seeking records pertaining to a Federal Bureau of Prisons employees stemming from your complaint. I have decided to neither confirm nor deny the existence of such records pursuant to Exemption 6 and 7(C) of the FOIA, 5 U.S.C. § 552(b)(6), (7)(C). (Exh. 2).

10. In May 5, 2018 Mr. Ramdeo. issued a letter via First Class Mail requesting clarification of why the information is exempt and that the Federal Bureau of prisons is not a national security component to which such an exemptions claimed applies. ( Exh. 3 ).

11. In June, 2018 Mr. Ramdeo, issued a Notice of Appeal to the Office of Information Policy. No response or acknowledgement was or has been received.

12. Mr. Ramdeo initiated the instant complaint thereafter.

13. The records sought by the Plaintiff is related to staff misconduct by Marcel Ramos and information collected by the OPR as part of the government oversight of it's employees. Under this Circuit's own precedent, such records are disclosable. Bartko v. U.S. DOJ, 898 F.3d 51 (D.C. Cir. 2018)(reversing district court judgment in favor of the DOJ, OPR of FOIA request, because documents pertaining to OPR investigation of alleged ethics violations by the prosecutor on his case did not qualify as protected law enforcement records under § 552(b)(7), and the OPR failed to meet its burden of explaining why disclosure of any records would categorically be an unwarranted invasion of the prosecutor's privacy when balanced against the public intent in disclosure under §552(b)(7)(C).

14. Plaintiff has submitted several correspondences to OPR counsel Lyn Hardy whom has not responded when the Bartko case was cited as a basis for disclosing the information.

15. Pursuant to 5 U.S.C. § 552(6)(C)(i) any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable limits provisions of this paragraph. If the government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records should be made promptly available to such person making such request. "Exceptional circumstances" does not include a delay that results from a predictable agency workload of requests. (ii).

16. As a matter of law, Mr. Ramdeo is deemed to have exhausted his administrative remedies as a result of the OPR's failure to comply with the applicable time limits and failure to exercise due diligence in responding to the request.

17. As of the date of this filing, the OPR is withholding the records sought and responsive to Mr. Ramdeo's request.

B. FEDERAL BUREAU OF PRISONS ("BOP")

18. On May 23, 2018 Plaintiff submitted a request under the Freedom of Information Act and Privacy Act, a request for certain records pertaining to him. See (Exh. 4).

19. On June 25, 2018 the BOP issued an acknowledgement letter, assigning FOIA/PA Request Number: 2018-05627, and sending the request to the Northeast Regional Office for processing. Based solely on lack of resources and workload the Defendant's delayed disclosure of the records responsive to Plaintiff's request. Indeed, the Defendant's claim that the request is unusual circumstances and estimate it could take up to 9 months to process the request. (Exh. 5).

20. As demonstrated by Exhibit 6, it takes 9 months to get a single page document from an inmate's central file, which seems unimaginable in this age of technology.

21. On or about August, 2018 Plaintiff submitted a request for a status update on his request. The Defendant's reiterated a nine month time frame to respond to Plaintiff's request. Exh. 7.

22. On October 3, 2018 Plaintiff sent another follow-up status request. No response to that request for a status has been received.

23. On December 3, 2010, Plaintiff submitted an appeal to the OIP indicating the BOP is improperly and intentionally delaying the response to my request. No response has been received. Exh. 8.

24. As a matter of law, Plaintiff is deemed to have exhausted his administrative remedies as a result of the BOP's failure to comply with the applicable time limits and failure to exercise due diligence in responding to the request.

25. As of the date of this filing, the BOP is withholding the records sought by Plaintiff.

COUNT I: VIOLATION OF FOIA/ PA  
(All Defendants)

26. This count realleges and incorporates by reference all of the preceeding paragraphs.

27. Plaintiff has a statutory right to the records that he seeks.

28. The Defendant's non-responsiveness and withholding of the items sought amounts to refusal to produce them.

29. The Defendants have violated FOIA and PA by improperly withholding records responsive to Mr. Ramdeo's FOIA/PA requests by not complying with the applicable time frames and failure to exercise due diligence, more than 6 months have elapsed since they acknowledge receiving the FOIA request(s).

RELIEF REQUEST

Plaintiff request that this Court: expedite pursuant to 28 USC 1657(a) and;

- a) Declare Defendant's failure to comply with FOIA and PA to be unlawful;
- b) Enjoin Defendant from continuing to withhold the records responsive to Plaintiff's FOIA/PA request and otherwise order Defendants to produce the requested records without further delay;
- c) sanction the Defendant's \$1,000 per day after the elapse of the 20 statutory time frame to respond based on their failure to have adequate staffing to handle the workload;
- d) Grant Mr. Ramdeo an award of attorney consultation fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(i) and 5 U.S.C. § 552a(g)(3)(B); and

d) Grant Mr. Ramdeo any other and further relief the Court deems proper.


Dated: January 8, 2019

Respectfully submitted,



Sonny A. Ramdeo,  
Reg #80568-053  
LSCI Allenwood  
P O Box 1000  
White Deer, PA 17887

I declare the foregoing to be true and correct under penalty of perjury pursuant to 28 U.S.C. § 1746.



Sonny Austin Ramdeo